

Public Service Commission

Richard E. Hitt, General Counsel

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November 1, 2004

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NOV - 2 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, D.C. 20554Federal Communications Commission
Office of the SecretaryRe: Petition of the West Virginia Public Service Commission
for expedited decision for delegation of authority to
implement additional number conservation measures,
CC Docket No. 99-200, CC Docket No. 96-98

Dear Ms. Dortch:

Enclosed for filing in the above-referenced proceeding is the *Petition of the West Virginia Public Service Commission for expedited decision for delegation of authority to implement additional number conservation measures.*

Copies of these documents have been sent to the persons named on the service list in this proceeding.

Very truly yours,

Richard E. Hitt, General Counsel
WV State Bar I.D. No. 1743
Chris Howard, Staff Attorney
WV State Bar I.D. No. 8688
Public Service Commission of West Virginia
201 Brooks Street
P.O. Box 812
Charleston, WV 25323
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Federal Communications Commission
Office of the Secretary**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Petition of the West Virginia Public Service
Commission for Expedited Decision for
Authority to Implement Additional Number
Conservation Measures
In the Matter of

NSD File No. _____

Number Resource Optimization

CC Docket No. 99-200

Implementation of the Local Competition
Provisions of the Telecommunications Act
of 1996

CC Docket No. 96-98

**PETITION OF THE WEST VIRGINIA PUBLIC SERVICE COMMISSION
FOR EXPEDITED DECISION FOR DELEGATION OF AUTHORITY
TO IMPLEMENT ADDITIONAL NUMBER CONSERVATION MEASURES****I. INTRODUCTION**

The West Virginia Public Service Commission ("WVPSC") submits to the Federal Communications Commission ("FCC") this Petition for Expedited Decision for Delegation of Authority to Implement Additional Number Conservation Measures. The WVPSC requests authority to implement number conservation measures to ensure that the public interest is protected against the ordeal of unwarranted area code relief. The WVPSC is confident that the FCC understands and appreciates the predicament faced by the WVPSC and other state commissions regarding numbering issues. The WVPSC is particularly sensitive to the pressing need for additional number conservation measures because of the rapid growth in the demand for numbering resources in recent months.

Congress granted the FCC plenary jurisdiction over numbering administration.¹

¹ 47 U.S.C. § 251(e).2

Section 251(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, allows the FCC to delegate to state commissions or other entities all or any portion of its jurisdiction over numbering administration.² West Virginia recognizes and appreciates the FCC's understanding of the states' need for immediate action in order to optimize number conservation measures. In the *Numbering Resource Optimization Notice*, the FCC concluded that thousands-block number pooling is an important numbering resource optimization strategy, essential to extending the life of the NANP.³ The authority to order mandatory thousands-block number pooling allows a state commission to address inefficiencies on the supply side of the telephone number assignment regime by ordering that local number portability ("LNP")-capable carriers receive blocks of 1000 numbers, rather than blocks of 10,000 numbers.

In the *Numbering Resource Optimization First Report and Order*, the FCC directed state commissions seeking thousands-block number pooling authority to demonstrate that: 1) an NPA in its state is in jeopardy; 2) the NPA in question has a remaining life span of at least a year; and 3) that the NPA is in one of the largest 100 metropolitan statistical areas ("MSAs"), or alternatively, the majority of wireline carriers in the NPA are LNP-capable. The FCC recognized, however, that there may be "special circumstances" in which pooling would be beneficial in NPAs that do not meet all of the above criteria, and stated that it may authorize pooling in such an NPA upon a satisfactory showing by a state commission of special circumstances.⁴ The FCC agreed to consider petitions to opt into the national

² *Id.* at § 251(e)(1).

³ *Numbering Resource Optimization Notice*, 14 FCC Rcd at 10383-84.

⁴ *Numbering Resource Optimization First Report and Order* at 7652.

pooling rollout schedule from states outside the top 100 MSAs, which believed that pooling would be beneficial in an NPA within their state. The FCC concluded that such flexibility was necessary in light of the diverse numbering conditions present in each state.⁵

On September 28, 1998, the FCC released the *Pennsylvania Numbering Order*, in which it delegated authority to state commissions to order NXX code rationing in conjunction with area code relief decisions, in the absence of industry consensus.⁶ In that Order, the FCC also encouraged state commissions to seek further limited delegations of authority to implement number conservation measures.⁷

The geographic scope of availability of LNP has dramatically expanded following the May 24, 2004 LNP mandate for areas outside the top 100 MSAs, while the scope of mandatory number pooling is limited to only the top 100 MSAs. The WVPSC urges the FCC to continue its focus on number conservation as competition moves beyond the top 100 MSAs. The WVPSC requests the FCC to expand the scope of the WVPSC's delegated authority to include mandatory implementation of number pooling for all rate areas in which two or more carriers operate that use numbering resources and have implemented LNP.

⁵ *Numbering Resource Optimization Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 99-200, (March 31, 2000), ¶164

⁶ *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration*, 13 FCC Rcd 19009, 19025 (1998) (*Pennsylvania Numbering Order*).

⁷ *Id.* at 19030.

⁸ *In the Matter Telephone Number Portability*, CC Docket No. 95-116, (November 10, 2003), Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, ¶29

II. BACKGROUND

Since the beginning of the North American Numbering Plan, with its area codes, V & H rate center coordinates and 10-digit interstate toll direct dialing capability, West Virginia has operated with one area code. That code encompasses the entire state and is the 304 NPA. To date, largely due to slow business and population growth in largely rural West Virginia, the 304 NPA has been sufficient to serve the state's numbering needs. In the past several years, however, rapid growth of new types of telecommunications services (cellular and PCS), more uses for telephone lines (second lines, fax lines, dial-up Internet access) and the rise of competitive local exchange carriers have put unprecedented and significant demands on the limited 304 NPA numbering resource.

III. DISCUSSION OF SPECIFIC DELEGATED AUTHORITY REQUESTED

The WVPSC seeks delegated authority to implement mandatory thousands-block number pooling in the 304 NPA in LNP capable rate centers, located outside the nation's top 100 MSAs, where two or more carriers have numbering resources. The 304 NPA has been in jeopardy for several years. The 304 NPA current exhaust date will occur within first quarter of 2006.

The WVPSC has looked at several factors in an attempt to understand why numbers in West Virginia are being consumed so rapidly. The WVPSC realizes that the rapid exhaustion of telephone numbers is due in part to the introduction of new technologies such as wireless phones, the Internet, the demand for additional lines for fax machines, and residential customers requesting additional voice lines, however, the biggest problem in West Virginia is the management of the numbering resources.

As in many other states, it appears that some carriers in West Virginia are reluctant to participate in voluntary number pooling in LNP-capable rate centers outside the top 100

MSAs. For this reason, the WVPSC requests delegated authority to implement mandatory number pooling in the 304 NPA. The WVPSC believes that "special circumstances" exist which warrant FCC authorization to implement mandatory thousands-block number pooling in the 304 NPA. The WVPSC believes that implementation of mandatory thousands block number pooling will likely postpone the need for area code relief in the 304 NPA. Recent carrier requests for numbering resources in West Virginia show that the demand for numbering resources is increasing, especially in the rural areas. Bona fide requests filed by wireless and other competitive carriers in recent months have accelerated the implementation of LNP in many West Virginia rate centers outside the top 100 MSAs, making optional pooling available. Unfortunately, many carriers have chosen not to participate in optional pooling and continue to request full NXX codes. This practice contributes to the early exhaust of area codes, which affects both service providers and consumers.⁹ Carriers are also faced with dwindling supplies of available telephone numbers. Inefficient allocation and assignment of numbers can be addressed in West Virginia by ordering mandatory thousands-block pooling in LNP-capable rate centers, located outside the nation's top 100 MSAs, where two or more carriers have numbering resources. This authority would allow the WVPSC to request that companies assign numbers sequentially in thousand-number blocks instead of blocks of ten thousand. The companies would also return any unused or sparsely used blocks for reassignment to other locations. The WVPSC requests additional authority to order mandatory thousands-block number pooling in LNP-capable rate centers outside the nation's top 100 MSAs in order to ensure the longevity of the 304 NPA. Verizon-WV and Frontier-WV are the two major

⁹ Report and Order and Further Notice of Proposed Rule Making, In the Matter of Number Resource Optimization, CC Docket No. 99-200, (March 31, 2000), ("Report and Order"), ¶116.

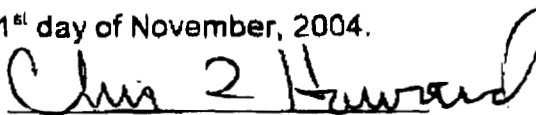
ILECs in WV. They serve over 95% of the state's telephone subscribers who get local exchange service from ILECs. Verizon-WV is 100% LNP capable and, as of November 2, 2004, Frontier-WV will be LNP capable. All of the CLECs in the state are LNP capable. Thus, WV is predominantly LNP capable and mandatory thousands-block number pooling will work well in preserving the 304 NPA's dwindling resources.

The WVPSC respectfully submits that 304 NPA meets the "special circumstances" test so as to warrant granting the WVPSC's request for additional delegated authority to order mandatory thousands-block number pooling in the 304 NPA.

IV. CONCLUSION

The West Virginia Public Service Commission respectfully requests that the FCC delegate to the WVPSC additional authority to order mandatory thousands-block number pooling in the 304 NPA in LNP-capable rate centers in which two or more carriers operate and are using numbering resources. Since time is of the essence to ensure that its number conservation measures have the maximum affect on reducing the demand for numbering resources, and to avoid premature area code relief, the WVPSC requests that the FCC grant this authority on an expedited basis.

RESPECTFULLY submitted this 1st day of November, 2004.



Richard E. Hitt, General Counsel

WV State Bar I.D. No. 1743

Chris Howard, WV State Bar I.D. No. 8688

Public Service Commission of West Virginia

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Petition of the West Virginia Public Service)	
Commission for Expedited Decision for)	NSD File No. _____
Authority to Implement Additional Number)	
Conservation Measures)	
In the Matter of)	
)	
Number Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local Competition)	
Provisions of the Telecommunications Act)	CC Docket No. 96-98
of 1996)	

CERTIFICATE OF SERVICE

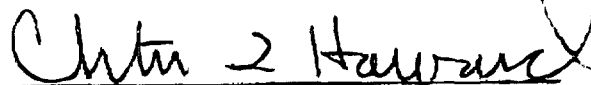
I, Richard E. Hitt, Counsel for the Public Service Commission of West Virginia, do hereby certify that a copy of the foregoing "Petition of the West Virginia Public Service Commission for expedited decision for delegation of authority to implement additional number conservation measures" has been served upon the following parties of record by First Class, United States Mail, postage prepaid this 1st day of November, 2004.

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CHRIS HOWARD, WV State Bar No. 8688

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**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 2nd day of September, 2004.

CASE NO. 00-0953-T-PC

THE NORTH AMERICAN NUMBERING
PLAN ADMINISTRATOR, on behalf of the
West Virginia Telecommunications Industry.
Petition for approval of a relief plan for the
304 Numbering Plan Area.

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COMMISSION ORDER

On January 9, 2004, the Public Service Commission of West Virginia ("Commission") issued an order instructing the work group previously established in this proceeding to address (5) questions regarding Numbering Plan Area (NPA) relief for the 304 area code. The work group submitted its report on May 19, 2004.

In pertinent part the work group answered the question contained in the Commission's January 9, 2004, order as follows:

5. Review conservation measures available and make recommendations regarding the implementation thereon.

a. Mandatory Thousands Block Number Pooling.

The work group discussed in depth various number conservation measures and their implementation at the work group's March 18, 2004, meeting. Members opined that the best course of action for the Commission to adopt in this regard is pursuit of mandatory thousands block number pooling in all local number portability (LNP) capable rate centers in the state (This, of course is not necessary in those rate centers that are subject to federally mandated number pooling. Only rate centers in the Washington, D.C. metropolitan statistical area ("MSA") are subject to federal number pooling in West Virginia. Such rate centers are located in Berkeley and Jefferson counties only. Elsewhere in West Virginia, federally-mandated pooling does not apply. However, West Virginia

has received delegated authority from the FCC to implement number pooling (on an interim, trial basis) throughout the entire state.

Implementing thousands-block number pooling throughout much of the rest of West Virginia was supported unanimously by members of the work group and all considered this to be an approach that would greatly increase the level of conservation of numbers and substantially push back the 304 area code's projected exhaust date (1Q06). The Pooling Administrator's representative presented information to the work group indicating that those rate centers currently implementing pooling were assigning numbers at a greatly reduced rate, since they are assigned in 1,000-number blocks, as opposed to the other rate centers in which numbers are assigned in 10,000-number blocks. Work group members noted that, should the Commission determine that number pooling throughout the state is the proper course of action, then a petition should be filed at the FCC requesting clarification that the Commission has the ability to implement mandatory pooling in these rate centers pursuant to the FCC's prior delegation of authority. Further, the Pooling Administrator noted that this mandatory pooling would be for the 304 area code only, as any new area code established in West Virginia at some future date would require a separate proceeding to establish mandatory pooling in regards to its assignment of numbers. Work group members noted that whenever a new area code is established, mandatory number pooling should be sought from the FCC in a timely manner so that all numbers assigned in the new area code would be assigned in blocks of 1,000 numbers rather than in the current 10,000 number block assignments.

b. Rate Center Consolidation.

In addition to, or as an alternative to, thousands-block number pooling, work group members discussed and rejected the idea of rate center consolidation as another number conservation approach. Verizon of West Virginia, Inc. and other members of the workgroup strongly oppose this idea of rate center consolidation. A Rate center consolidation would reduce the number of rate centers from which numbers would be allocated in the future. For those wire centers that are not capable of providing number portability – the majority of these are served by Citizens Telecommunications Company of West Virginia, Inc., dba Frontier Communications of West Virginia ("Frontier-WV") – rate center consolidation may be the only feasible number conservation approach. Under rate center consolidation, certain contiguous rate centers, with small populations and/or geographic sizes, would be consolidated into one larger rate center, and most, if not all, of the NXX codes associated with the merged rate centers would be made available for reassignment. For example, Frontier-WV's

Bluewell, Gary, Anawalt and Maybeury rate centers (located in Mercer and McDowell counties), have approximately 2300 access lines, total, yet there are 40,000 numbers available in these exchanges (4 NXX codes of 10,000 numbers each). If these four rate centers were consolidated into one, then 30,000 numbers would be freed up for assignment elsewhere. The process is similar to when county or municipal government jurisdictions merge.

Work group members noted that rate center consolidation is not a preferred means of number conservation. One major drawback to rate center consolidation is that implementation is extremely lengthy. Another drawback is that consolidating rate centers impacts carriers' billing systems and affects not only the local carriers' revenues (from lost mileage-sensitive rates) but those of interexchange carriers as well. Also, due to the rate center consolidation, many phone subscribers in the merged exchanges would be required to change their phone numbers and many persons and businesses would experience changes (some positive and some negative) in the rates that they pay for local measured and toll telephone calls. Local dialing, per the Winfield plan, could also adversely affect customers. Moreover, given the time necessary to implement rate consolidation, this conservation measure will not have any short-term effects on pushing back the current exhaust date.

CONCLUSIONS AND RECOMMENDATIONS

Based on the foregoing, the Commission's work group in this proceeding offers the following conclusions and recommendations:

(4) The Commission should file a petition with the FCC, seeking clarification, pursuant to the FCC's prior delegation of such authority to the Commission, that the Commission may order mandatory thousands-block number pooling, in the 304 NPA, in all local number portability-capable rate centers that are not included in the federal number pooling program.

(5) The Commission should direct work group members to begin studying the feasibility of implementing rate center consolidation for all rate centers in the state that are not number portability capable.

["Recommendation of the Commission's Work Group", filed May 19, 2004.]

DISCUSSION

The Commission has had the opportunity to review the "Recommendation of the Commission's Work Group." At this time the Commission concludes that it is prudent to move

forward with all deliberate speed to institute conservation measures as described below. However, at this time the Commission shall not initiate the institution of a new area code through either the geographic split or the overlay method. The Commission shall address the institution of a new area code through a later order.

The Commission shall herein direct Commission Staff to file a petition with the FCC on behalf of the Commission seeking clarification of the Commission's authority to order mandatory thousands-block number pooling in the 304 NPA and all local number portability-capable rate centers that are not included in the federal number pooling program. Commission Staff shall prepare such document for the Commission's signature within sixty (60) days of the date of this order.

The Commission shall also direct the work group members to study the feasibility of implementing rate center consolidation for all rate centers in the State that are not number portability capable. Included in such study the work group should address (1) the pros and cons of such implementation, (2) a likely timetable for such implementation; and (3) the specific effects on the Winfield plan, local carriers' revenues, and the adverse impact upon subscribers in the merged exchanges and possible strategies for addressing such effects. The work group shall file such reports within ninety (90) days of the date of this order.

FINDING OF FACT

1. On January 9, 2004, the Commission issued an order instructing the work group to address five specific issues regarding Numbering Plan Area (NPA) relief for the 304 area code.

2. The work group submitted its report on May 19, 2004, and therein, among other things, made recommendations regarding conservation measures that could be undertaken by the Commission. Specifically, the work group recommended the following:

(4) The Commission should file a petition with the FCC, seeking clarification, pursuant to the FCC's prior delegation of such authority to the Commission, that the Commission may order mandatory thousands-block number pooling, in the 304 NPA, in all local number portability-capable rate centers that are not included in the federal number pooling program.

(5) The Commission should direct work group members to begin studying the feasibility of implementing rate center consolidation for all rate centers in the state that are not number portability capable.

CONCLUSION OF LAW

The Commission concludes that it is prudent to move forward with all deliberate speed to institute conservation measures.

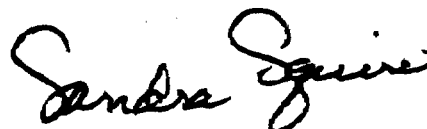
ORDER

IT IS THEREFORE ORDERED that Commission Staff prepare for the Commission's signature a petition to the FCC seeking clarification of the Commission's authority to order mandatory thousands-block number pooling in the 304 NPA and in all local number portability-capable rate centers that are not included in the federal number pooling program. Commission Staff shall prepare such document within sixty (60) days of the date of this order.

IT IS FURTHER ORDERED that the work group members study the feasibility of implementing rate center consolidation for all rate centers in the State that are not number portability capable. Included in such study the work group should address (1) the benefits and detriments of such implementation, (2) a likely timetable for such implementation; and (3) the specific effects on the Winfield plan, local carriers' revenues, and the adverse impact upon subscribers in the merged exchanges along with possible strategies for addressing such effects. The work group shall file such report within ninety (90) days of the date of this order.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

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Executive Secretary

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